

# Calendar No. 478

89TH CONGRESS }  
1st Session }

SENATE

{  
REPORT  
No. 494

## AMENDING THE LAW RELATING TO THE FINAL DISPOSITION OF THE PROPERTY OF THE CHOCTAW TRIBE

JULY 20, 1965.—Ordered to be printed

Mr. METCALF, from the Committee on Interior and Insular Affairs, submitted the following

### REPORT

[To accompany H.R. 5860]

The Committee on Interior and Insular Affairs, to whom was referred the bill (H.R. 5860) to amend the law relating to the final disposition of the property of the Choctaw Tribe, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

#### PURPOSE

The purpose of H.R. 5860 is to extend by 3 years the time within which certain provisions of the act of August 25, 1959 (73 Stat. 420), as amended by the act of August 24, 1962 (76 Stat. 405), are to be implemented.

#### NEED

The act of August 25, 1959, provided the rules governing completion of disposition of the assets of the Choctaw Tribe. The act of August 24, 1962, extended by 3 years the time for carrying out these provisions. Under the 1959 law the Secretary of the Interior was directed to dispose of the lands (except a one-half mineral interest) belonging to the Choctaw Tribe and held by the United States in trust for the tribe or subject to a restriction against alienation imposed by the United States. A legal entity was to be organized under the laws of Oklahoma, as the successor in interest to the Choctaw Tribe, to hold the reserved mineral interest, and if it so chose, to take title to the Choctaw lands.

In the course of carrying out the 1959 act the tribe has had to engage in several lawsuits in order to protect its claims with respect to the tribal lands. Although an additional 3 years were provided

in the 1962 act, the task has not been completed and thus another extension is required.

## COST

Little expenditure of Federal funds is anticipated during the additional 3-year period provided under H.R. 5860.

## DEPARTMENTAL REPORT

The report of the Secretary of the Interior dated April 29, 1965, is as follows:

DEPARTMENT OF THE INTERIOR,  
OFFICE OF THE SECRETARY,  
*Washington, D.C., April 29, 1965.*

Hon. WAYNE N. ASPINALL,  
*Chairman, Committee on Interior and Insular Affairs,  
House of Representatives, Washington, D.C.*

DEAR MR. ASPINALL: This responds to your request for a report on H.R. 5860, a bill to amend the law relating to the final disposition of the property of the Choctaw Tribe.

We recommend the bill be enacted.

The bill amends the act of August 25, 1959 (73 Stat. 420), as amended by the act of August 24, 1962 (76 Stat. 405). It extends until August 25, 1970, the period within which to carry out the provisions of the 1959 act.

The principal chief of the Choctaw Tribe has designated certain tracts of land which the tribe intends to retain, totaling approximately 5,000 acres, plus its reserved, or to be reserved, mineral interests in an additional acreage. Since August 25, 1959, 34 tracts of land, comprising 2,421 acres, have been offered for sale, some tracts as many as 5 times. The latest sale was held on September 15, 1964. Eleven tracts comprising 702 acres were sold. Judging from past responses to advertised sales, several hundreds of acres currently designated for sale cannot be disposed of by August 25, 1965.

Most of the tribal lands are owned jointly by the Choctaw and Chickasaw Tribes, the proportion being three-fourths Choctaw and one-fourth Chickasaw. This applies also to reserved mineral interests, including interests under tracts to which the surface rights have been conveyed. The 1959 act provides for payment to the Chickasaw Tribe of the appraised value of its undivided interest before such jointly owned lands or interests may be conveyed to a trustee, a corporation, or other legal entity organized under State law as a successor to the Choctaw Tribe. In many instances the titles to such lands or interests in lands are clouded and quiet title suits or other action will be needed to establish good title. Without a determination of the ownership of lands having questionable title, it is not possible to determine the value of the Chickasaw interests. Nor is it feasible to offer such tracts for sale.

Many suits are either presently pending or are in contemplation which involve the claim of the Choctaw Tribe to subsurface rights under the beds of lakes, streams, and rivers and under tracts to which title passed prior to 1937 when the Secretary was directed by Congress to reserve all mineral interests under any lands of the Choctaw Tribe sold thereafter (50 U.S. Stat. 810). These tracts include sales such as those to the State of Oklahoma for a game preserve under the act of

May 25, 1918 (40 Stat. 582), cemetery and church sites under the act of August 24, 1912 (37 Stat. 531), and to the State of Oklahoma for a sanatorium or sanatoriums for whites and Indians as authorized by the act of February 21, 1921 (41 Stat. 1105).

The tribe has now instituted a number of quiet title actions, some of which have been completed. Other suits are proposed. In an effort to assist the tribe in clearing tribal land titles, legal research is being performed by a firm of attorneys under contract, and the field solicitor of the Department of the Interior will review the title information obtained by these attorneys and refer appropriate cases directly to the U.S. attorney for possible legal action. Even with intensified efforts to clear the titles of all Choctaw tribal lands, the necessary work, including the litigation involved, cannot be completed before the expiration date of the act, August 25, 1965. We estimate that an additional 5 years will provide ample time in which to complete all such work so that the disposition of the Choctaw tribal assets can be carried out in a manner appropriate for a Federal trustee. Several thousand acres are involved in this type investigation and possible litigation. Every effort is being made to hasten such litigation, but it may yet be that dilatory tactics and appeals to higher courts by dissatisfied litigants, or burdened court dockets, will consume the greater portion of the extension period now requested.

Under section 1(a) all half interests in oil, gas, hydrocarbons, and all other minerals or mineral rights which are reserved for separate sale are to be conveyed to the surface owner in the event no legal entity has been designated and appointed by the tribe as its successor entity before August 25, 1965. Additional time is needed to ascertain by means of the above suits what interests may be owned by the tribe and arrangements made for their transfer.

Section 12(b) presently provides that all moneys accruing to any tribal member, including credits to individual Indian money accounts, which are not claimed within 7 years after the procedure for distribution has been established or within 2 years after the date of the passage of the original act, whichever is later, shall escheat to the tribe and be transferred to the legal entity created as a successor to the Choctaw Tribe if that entity is in existence and, if such entity does not exist on August 25, 1965, then to the United States.

The requested extension will also extend the period within which such payments may be made if the proceeds realized from the sale of these tracts is sufficient to justify a per capita distribution.

#### DISPOSITION OF PROPERTY OF THE CHOCTAW TRIBE

The Bureau of the Budget has advised that there is no objection to the presentation of this report from the standpoint of the administration's program.

Sincerely yours,

JOHN A. CARVER, Jr.,  
*Under Secretary of the Interior.*

#### CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill (H.R. 5860) as reported, are shown as follows (existing law proposed to be

omitted is enclosed in black brackets; new matter is printed in italic; existing law in which no change is proposed is shown in roman).

ACT OF AUGUST 25, 1959 (73 STAT. 420), AS AMENDED

In order to complete the action for the Choctaw Tribe authorized by the Act of April 26, 1906 (34 Stat. 137), entitled "An Act to provide for the final disposition of the affairs of the Five Civilized Tribes in the Indian Territory and for other purposes", the Secretary of the Interior is authorized and directed:

(a) Except as otherwise provided in subsections (b) and (c) of this section, to sell within ~~["six"]~~ *nine* years after the date of this Act or as soon thereafter as possible, upon such terms and conditions as he deems proper, all lands, interests therein, and improvements thereon (except a one-half interest in the oil, gas, hydrocarbons, and all other minerals or mineral rights in such lands, which one-half interest shall be reserved) that now or hereafter belong to the Choctaw Tribe, or to the Choctaw and Chickasaw Tribes jointly, and either are held by the United States in trust for the tribe or tribes or are subject to a restriction against alienation imposed by the United States, and to sell upon such terms and conditions as he deems proper a one-half interest in all oil, gas, hydrocarbons, and all other minerals or mineral rights in any such lands that were acquired by and are owned by the United States pursuant to the Oklahoma Indian Welfare Act of June 26, 1936 (49 Stat. 1967), as amended (25 U.S.C. 501-509), or the Indian Reorganization Act of June 18, 1934 (48 Stat. 984), as amended (25 U.S.C. 461 and the following). The remaining one-half interest in such mineral deposits shall be held in trust for the tribe or tribes until conveyed as hereinafter provided. The proceeds from all such sales, after deduction of the costs of sale, shall be deposited in the Treasury of the United States to the credit of the tribe or tribes to which the surface rights in the land belonged. As soon as feasible, but not later than ~~["six"]~~ *nine* years after the date of enactment of this Act, unrestricted title to the Choctaw portion of the one-half interest in the oil, gas, hydrocarbons, and all other minerals or mineral rights that is directed to be reserved and held in trust by this subsection shall be conveyed by the Secretary to a trustee, corporation, or other legal entity that is organized under State law and that is designated by the Choctaw Tribe and approved by the Secretary. If no such legal entity is designated and approved, unrestricted title to such interest shall be conveyed by the Secretary to the owner of the surface rights in the land. The Chickasaw portion of such one-half interest shall be held in trust until such time as the Secretary determines that it should be sold or conveyed for the benefit of the tribe, which sale or conveyance is hereby authorized.

(b) To convey without consideration, upon request of the Choctaw Tribe, to a trustee, corporation, or other legal entity that is organized under State law and that is designated by the tribe and approved by the Secretary, an unrestricted title to any of the lands that are subject to sale under subsections (a) and (d) of this section, together with all mineral rights therein: *Provided*, That if such lands are held for the benefit of the Choctaw and Chickasaw Tribes jointly, the Choctaw Tribe shall pay to the Chickasaw Tribe prior to such conveyance the appraised value of the undivided Chickasaw interest.



(c) To convey to the life tenant, his heirs, devisees, successors, or assigns unrestricted title to the entire interest in lands and improvements thereon, including mineral deposits, that were acquired pursuant to the Oklahoma Indian Welfare Act of June 26, 1936 (49 Stat. 1967), as amended (25 U.S.C. 501-509), or the Indian Reorganization Act of June 18, 1934 (48 Stat. 984), as amended (25 U.S.C. 461 and the following), by the United States in trust for a designated individual Indian for his lifetime and thereafter in trust for the tribe.

(d) Except as provided in subsection (b) of this section, to sell within [six] nine years after the date of enactment of this Act or as soon thereafter as possible, upon such terms and conditions as he deems proper, or to transfer to a Federal agency or to a public body for public use, the lands, interests therein, and improvements thereon which have been acquired by the United States for use of the Choctaw Tribe under authority of title II of the National Industrial Recovery Act of June 16, 1933 (48 Stat. 200), and subsequent Acts, administrative jurisdiction over which has heretofore been transferred by the President from the Secretary of Agriculture to the Secretary of the Interior by Executive Order Numbered 7868, dated April 15, 1938. The proceeds from such sales, after deduction of costs of sale, shall be deposited in the Treasury of the United States to the credit of the tribe.

SEC. 2. Nothing in this Act shall deprive any Indian of any individual right, ownership, or contract right he may have in land that is sold.

SEC. 3. Any one or more of the enrolled members of the Choctaw Tribe or their descendants who occupy under a written lease or permit from the Bureau of Indian Affairs a portion of any lands subject to sale under the provisions of this Act shall have the right to purchase at such sale the lands which they occupy for a price equal to the highest acceptable competitive bid therefor, less the appraised value of any improvements which they may have placed thereon and which were not a part of the consideration for the lease or permit.

SEC. 4. The Secretary of the Interior is authorized to execute such patents, deeds, assignments, releases, certificates, contracts, and other instruments as may be necessary or appropriate to carry out the provisions of this Act, or to establish a marketable title to any property disposed of pursuant to this Act.

SEC. 5. Nothing in this Act shall abrogate any valid lease, permit, license, right-of-way, lien, or other contract heretofore approved. Whenever such instrument places in or reserves to the Secretary any powers, duties, or other functions with respect to the property subject hereto, the Secretary may transfer such functions, in whole or in part, to any Federal agency with the consent of such agency.

SEC. 6. The Secretary is authorized to set off against any indebtedness payable to the tribe or to the United States by any individual member of the tribe, or payable to the United States by the tribe, any funds payable to such individual or tribe under this Act and to deposit the amounts set off to the credit of the tribe or the United States as the case may be.

SEC. 7. The Act of June 18, 1934 (48 Stat. 984), as amended (25 U.S.C. 461), and the Act of June 26, 1936 (49 Stat. 1967), as amended (25 U.S.C. 501-509), shall not apply to the Choctaw Tribe and its members after the date of enactment of this Act, except that the provisions of section 1 of the Act of June 26, 1936, with respect to

taxes on lands that are held by the United States in trust shall continue in effect until the trust is terminated, and any trust for the benefit of an individual Indian that was created pursuant to such section shall be terminated only as otherwise authorized by this Act or by any other Federal statute.

SEC. 8. Nothing in this Act shall affect any claim heretofore filed against the United States by the Choctaw Tribe.

SEC. 9. Nothing in this Act shall affect the provisions of the Act of August 11, 1955 (69 Stat. 666).

SEC. 10. In any per capita distribution of tribal funds that is hereafter made to members of the Choctaw Tribe, or their heirs or legatees, no payment shall be made in an amount that is less than \$1, and any share that is less than \$1 shall be credited to the appropriation available for carrying out the purposes of this Act.

SEC. 11. No principal chief of the Choctaw Tribe shall be appointed pursuant to section 6 of the Act of April 26, 1906 (34 Stat. 137), after a legal entity is designated and approved pursuant to subsection (a) of the first section of this Act, or after ~~[six]~~ *nine* years from the date of enactment of this Act, whichever is sooner.

SEC. 12. (a) The Secretary of the Interior is directed to exercise the discretionary authority granted by the Act of May 24, 1949 (63 Stat. 76, 84), to distribute per capita all of the funds held by the United States for the benefit of the Choctaw Tribe; except the amount necessary for the operation of the Choctaw Tribal Government until a legal entity is designated and approved pursuant to subsection (a) of the first section of this Act or until ~~[six]~~ *nine* years from the date of enactment of this Act, whichever is sooner.

(b) Any per capita sum or other tribal funds or securities accruing to any member of the Choctaw Tribe or to his heirs or legatees, under this or any other Act, including any such sums that have been credited to individual Indian money accounts without application of the Indian for his distributive share of the tribal asset involved, that is not claimed by such person within seven years after the Secretary has first announced the procedure for submitting claims or within two years after the date of enactment of this Act, whichever is later, shall escheat to the tribe by operation of law and shall be transferred by the Secretary immediately upon the expiration of such time to the legal entity that is designated and approved pursuant to subsection (a) of the first section of this Act. If no such legal entity is designated and approved within ~~[six]~~ *nine* years from the date of enactment of this Act, any sums that would escheat to the tribe under this subsection shall escheat to the United States and be deposited in the miscellaneous receipts of the Treasury.

(c) The legal entity organized under State law and designated and approved pursuant to subsection (a) of the first section of this Act, if any, shall be the successor in interest to the Choctaw Tribe for all purposes, and for a period of three years after such legal entity is organized it shall have the same immunity from the defense of laches or a statute of limitations that the Choctaw Tribe had prior to such time.



